

REMARKS

Applicants wish to thank the Examiner for reviewing the present patent application. Applicants submit that support for the aforementioned amendments may be found, among other places, on page 10, lines 1-4 of the specification as originally filed.

I. Rejection Under 35 USC §102(a)

The Examiner continues to reject claims 1, 3-6, 8-11 and 17-20 under 35 USC §102(a) as being anticipated by non-patent literature submission: Abstract of a presentation at a skin conference in Hamburg, 2003, specifically Filament et al., and entitled, "Finger Perception Metrology", (hereinafter, abstract).

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention as now presented is patentably distinguishable from the above-described for at least the following reasons.

Independent claim 1, as now presented, is directed to an acoustic emission measurement system comprising:

- (A) means for generating an acoustic emission signal from a body by contacting skin on one area of the body with skin on another area of the body to produce skin/skin frictional forces;
- (B) means for collecting, storing and displaying said emission signal;
- (C) means for correlating said emission signal with an attribute of said skin; wherein said system is used as a clinical tool to evaluate efficacy of cosmetic skin care and/or cleansing products fix like claim 1.

Independent claim 5 as now presented describes a cosmetic product selection and/or customization system comprising the acoustic emission system of claim 1.

In contrast, and as already made of record, the abstract relied on by the Examiner is merely directed to finger perception metrology whereby finger sliding tests are performed on various abrasive papers to show a good correlation of the co-efficient of friction and the variations of acoustic signals (please see Sec. 19, pages 168-169 of the abstract). Again, a prototype of perception metrology, therefore, is described to quantify the friction and acoustic signals during the sliding of the finger on a surface of materials. The teachings of the abstract clearly teach away from the presently claimed invention which creates emission signals from a body by contacting skin-on-skin (please see the limitations of the independent claims). Direct application of a device onto the body is not required in the current invention but is required in the technology described in the reference. Clearly, the abstract teaches the use of abrasive papers (result section). Turning to claims 17-20, since the claims rely on independent claims requiring skin-on-skin frictional forces, they are not anticipated in view of the abstract of record. As presented, the presently claimed invention includes skin sliding or rubbing on skin. Applicants respectfully direct the Examiner's attention to the "Results" section where the abstract teaches that finger sliding tests are performed on various abrasive papers, and the "Conclusion" section of the abstract where it has been reported that there is good correlation between the force of friction and the acoustic signal measured with the finger and an acoustic sensor on the skin.

In view of this, and again, it is clear that all the important and critical limitations set forth in the presently claimed invention are not found in a single reference, namely the abstract. It is also clear the abstract teaches away from the present invention.

Therefore, the Applicants, again, request that the novelty rejection be withdrawn and rendered moot.

II. Rejection Under 35 USC §103

The Examiner maintains the rejection of claims 2 and 7 under 35 USC §103 as being unpatentable over the abstract of record in view of non-patent literature submission abstract of a presentation at a skin conference in Hamburg, 2003, Fleming "Mobile, multimedia computing for improved clinicopathologic correlation in dermatopathology (hereinafter, "Fleming").

Notwithstanding the Examiner's apparent position to the contrary, it is the Applicants' position that the presently claimed invention as now presented is patentably distinguishable from the above-described for at least the following reasons.

As already made of record, the present inventions are directed to an acoustic emission measurement system and a cosmetic product selection and/or customization system that rely on the generation of acoustic emission signals from the body by contacting skin on one area of the body with skin on another area of the body to produce skin/skin frictional forces. As already made of record, the abstract requires sliding of the finger on various abrasive papers and does not rely on skin/skin frictional forces as set forth in the presently claimed inventions. In fact, the abstract teaches away from the presently claimed invention. While the Fleming abstract mentions the use of computers running software in dermatopathology laboratories, it does not cure the vast deficiencies of the abstract since the combination of references relied on by the Examiner, again, does not, even remotely, suggest ways to assess skin via skin/skin frictional forces and does not suggest skin sliding and/or rubbing on skin.

In view of the above, it is clear that all the important and critical limitations set forth in the presently claimed invention are not found in the combination of references relied on by the Examiner. Therefore, Applicants, again, request that the obviousness rejection be withdrawn and rendered moot.

Applicants submit that all claims of record in this RCE are ready to pass to issue.

In the event the Examiner has any questions concerning the present patent application, the Examiner is kindly invited to contact the undersigned counsel at his earliest convenience.

Respectfully submitted,



Edward A. Squillante, Jr.
Registration No. 38,319
Attorney for Applicant(s)

EAS/pod
(201) 894-2925